the defendant was so drunk at the time of the killing as to be incapable of entertaining a premeditated design to effect the death of the deceased, he could not be convicted of murder in the first degree; that if he was incapable, by reason of intoxication, of entertaining any design to kill, he could not be convicted of murder in the second degree, and that such a finding would reduce the offense to manslaughter in the first degree. *State* v. *Corrivan* (Minn.), 100 N. W. 636.

NEGOTIABLE INSTRUMENTS LAW—SECTION 64—CHANGE OF COMMON LAW RULE—In *Rosetta Corn* v. *Julia Levy et al.*, N. Y. Supreme Court, Appellate Division (July, 1904), it was decided that sec. 114 of the negotiable instruments law (which is identical with sec. 64 of the Virginia statute) changed the common law in that a third party could not be charged as an endorser of a promissory note before delivery unless the complaint alleged that the endorsement was made in order to give the maker credit with the payee or that the party endorsed the note as surety for the maker. The omission of such an allegation was formerly held to be a fatal defect in an action to charge such an endorser. The necessity of an averment to that effect appears no longer to exist, however, in view of the plain language of the negotiable instruments law, which seems to require nothing more than the simple fact of the endorsement to render the defendant *prima facie* liable in such a case.

CONTRACT—LACK OF CAPACITY—INTOXICATION—In order to establish intoxication as a defense at law in cases of contract, it must appear that the intoxication of the person whose competency is challenged was so far complete that he would be unable to understand the nature and effect of the act in which he was engaged and the business he was transacting. *Waldron* v. *Angleman* (N. J.), 58 Atl. 568.

DISCHARGE OF SERVANT—MALICIOUS PROCUREMENT—LIABILITIES—In *Lancaster* v. *Hamburger* (Ohio), 71 N. E. 289, it was held that a patron of a street railway company incurs no liability to a conductor by reporting to the superintendent of the company such conductor's misconduct while on duty toward a passenger, though in making the report he is prompted by ill will and a desire to secure the conductor's discharge from the service of the company.

OBITER DICTUM—WHAT IS IT?—Where a court places its decision of the ultimate legal issue before it upon its decisions of two legal questions which were pertinent to the issue, debated at the bar, considered and determined in the opinion, the decision of either one of which is sufficient to sustain the determination of the ultimate issue, the decision of each of the two questions and of every pertinent legal question decided in reaching either decision has the binding force of an adjudication, and is not a mere *obiter dictum*. *Union Pacific Ry.* v. *Mason City etc. R. R.*, 128 Fed. 230, citing *Railroad Cos.* v. *Schutte*, 103 U. S. 118, 143, 26 L. Ed. 327; *Buckner* v.